

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

Official Minutes July 8, 2005

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**MINUTES OF REGULARLY SCHEDULED HIGHWAYS AND
TRANSPORTATION COMMISSION MEETING HELD IN
SPRINGFIELD, MISSOURI, ON FRIDAY, JULY 8, 2005**

A regularly scheduled meeting of the Missouri Highways and Transportation Commission held on Friday, July 8, 2005, in Springfield, Missouri, was called to order at 9:30 a.m. by Marjorie B. Schramm, Chairman. The following Commissioners were present: Bill McKenna, Vice Chairman, James B. Anderson, Duane S. Michie, Wallace S. Hartsfield, and Mike Kehoe.

The meeting had been called pursuant to Section 226.120 of the 2000 Revised Statutes of Missouri, as amended. The Secretary verified that notice of the meeting was posted in keeping with Section 610.020 of the 2000 Revised Statutes of Missouri, as amended.

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Mr. Rich Tiemeyer, Chief Counsel for the Commission; and Mrs. Mari Ann Winters, Secretary to the Commission, were present on Friday, July 8, 2005. Mr. Pete Rahn, Director of the Missouri Department of Transportation, was absent.

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*"Department" or "MoDOT" herein refers to Missouri Department of Transportation.
"Commission" or "MHTC" herein refers to Missouri Highways and Transportation Commission.*

CLOSED MEETING

The agenda of the closed meeting was posted in keeping with Sections 610.020 and 610.022, RSMo., including the following statutory citations allowing the meeting to be closed:

1. Section 610.021(11), (12) – Specifications for competitive bidding, sealed bids, or negotiated contracts.
2. Section 610.021(1) – Legal actions and attorney-client privileged communications.
3. Section 610.021(3), (13) – Personnel administration regarding particular employees.

Immediately prior to closing its meeting, and upon motion by Commissioner Michie, seconded by Commissioner McKenna, to convene in closed session, the Chairman asked for a voice vote of the members. The vote was as follows:

Commissioner Schramm, Aye
Commissioner McKenna, Aye
Commissioner Michie, Aye
Commissioner Anderson, Aye
Commissioner Hartsfield, Aye
Commissioner Kehoe, Aye

whereupon the Commission closed its meeting.

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APPROVAL OF MINUTES, REGULARLY SCHEDULED HIGHWAYS AND TRANSPORTATION COMMISSION MEETING, JUNE 10, 2005

Upon motion by Commissioner Michie, seconded by Commissioner McKenna, the Commission unanimously approved the minutes of its June 10, 2005, regularly scheduled meeting. The Chairman and Secretary to the Commission were authorized and directed to sign and certify said minutes and to file same in the office of the Secretary.

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CONSENT AGENDA

Consent Agenda Process

In order to make the most efficient use of Commission meeting time and to ensure the Commission members are well informed on issues requiring their action, the staff prepares and submits to the Commission members, in advance of their meeting, internal memoranda consisting of advice, opinions, and recommendations related to the items on the Commission meeting agenda. Those items considered by the staff to be of a routine or noncontroversial nature are placed on a consent agenda. During the meeting, items can be removed from the consent agenda at the request of any one Commission member. The items that are not removed from the consent agenda are approved with a single motion and unanimous vote by a quorum of the members.

Minutes reflecting approval of items on the consent agenda are singly reported herein and intermingled with minutes reflecting action on related subjects that were openly discussed. Reference to "consent agenda" is made in each minute approved via the process described in the paragraph above. Minutes reflecting action on items removed from the consent agenda and openly discussed reflect the open discussion and vote thereon.

Consideration of July 8, 2005, Consent Agenda

No items were removed from the July 8, 2005, consent agenda. Upon motion by Commissioner McKenna, seconded by Commissioner Hartsfield, all items on the consent agenda were unanimously approved.

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REPORTS OF COMMISSION COMMITTEES AND COMMISSION RELATED BOARDS

The Commission has two committees: Audit Committee and Legislative Committee. In addition, it elects Commission representatives to two boards: Missouri Transportation Finance

Corporation Board of Directors and MoDOT and Patrol Employees' Retirement System Board of Trustees. The following committee/board reports were made during the July 8, 2005, meeting.

Audit Committee – Commissioner Michie reported that the Audit Committee had met on July 7, 2005. During the meeting, the committee reviewed internal audits and a report on the status of prior audit recommendations. MoDOT's independent auditor, BKD, LLC, will begin work on the Fiscal Year 2005 audit this month. Commissioner Michie commended the Audits and Investigations Director and staff on their outstanding efforts.

Legislative Committee – Commissioner McKenna reported that the Joint Committee on Transportation Oversight would meet on August 4, 2005. Director Rahn will present an update on the Amendment 3, Smoother, Safer, Sooner Program, and Chief Engineer Kevin Keith will make a presentation on the "practical design" engineering concept. On the federal level, Congress passed another Continuing Resolution for transportation, which will expire on July 19, 2005.

On June 20, 2005, Commissioner McKenna, along with representatives from the Departments of Economic Development and Elementary and Secondary Education, addressed the Farm Bureau Policy Committee. He summarized his presentation as noted below:

Commissioner McKenna advised those attending the meeting of past challenges at MoDOT and the numerous changes that have been implemented in the past three years. He explained that the Commission had established a Blue Ribbon Panel comprised of members from throughout Missouri to review and make recommendations pertaining to MoDOT and Commission operations and processes in an effort to identify changes needed to build credibility with Missouri citizenry. As a result, the Blue Ribbon Panel submitted 12 recommendations; some of the recommendations have been implemented, others are on-going and/or require long-term solutions.

One of the Blue Ribbon Panel recommendations pertained to building a closer, more cooperative relationship with members of the General Assembly. As a result, the Commission now enjoys a partnership relationship with the legislature, as reflected by Senator Jon Dolan spearheading a three-phased transportation plan. The first phase dealt with accountability and a bill was enacted toward that end in 2002. The second phase pertained to ending the diversion of highway user fees to other state agencies, which was addressed by voter approval of Amendment 3 in 2004. The third phase involves increasing state revenue to avoid loss of future federal matching funds.

Other positive MoDOT/Commission changes include implementation of an objective funding distribution formula and expeditious development of the Amendment 3 Smoother, Safer, Sooner highway and bridge program. MoDOT also implemented an open planning framework that involved every metropolitan planning organization and regional planning commission in Missouri in the

selection and prioritization of major highway improvements. It also implemented a new “practical design” engineering concept. Savings realized as a result of the practical design concept are reinvested in the highway and bridge construction program.

Commissioner McKenna recognized that good roads are vital to economic development. He noted that additional dollars will ultimately be needed to deliver a good statewide transportation program, and he acknowledged that those additional dollars would not be forthcoming until Missourians have confidence in MoDOT. He stated that both the MoDOT staff and the Commission are working diligently to earn that confidence.

Commissioner Anderson suggested that Director Pete Rahn offer to update the Farm Bureau membership on the positive actions taking place within MoDOT at Farm Bureau’s annual meeting in December 2005.

MoDOT and Patrol Employees’ Retirement System Board of Trustees – Commissioner Anderson reported that the Board of Trustees of the MoDOT and Patrol Employees’ Retirement System anticipates that a task force will be assembled during the summer to evaluate the feasibility of merging the MoDOT and Patrol Employees’ Retirement System with the Missouri State Employees Retirement System.

The State Auditor’s Office has just completed a five-year audit of the retirement system. Commissioner Anderson noted that the State Auditor had offered some very good recommendations; some of which are in the process of being implemented, others will be implemented in the near future.

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WELCOME TO SPRINGFIELD

Mr. John Twitty, General Manager of City Utilities, and Senator Norma Champion welcomed the Commission to Springfield and to the City Utilities conference facilities. Mr. Twitty noted that City Utilities is the transit operator in Springfield, and he thanked the Commission for highway and transportation improvements in the Springfield/Greene County region.

Senator Champion pointed out that transportation facilities were extremely important to the numerous trucking and tourism industries in southwest Missouri. She expressed pleasure with the positive changes taking place within MoDOT and thanked the Commission and staff for their efforts.

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**PRESENTATION, SENATOR JON DOLAN,
SENATE TRANSPORTATION COMMITTEE CHAIR**

Senator Jon Dolan, Chair of the Senate Transportation Committee, expressed optimism about Missouri's transportation program. He reminded the Commission that legislation was recently enacted to evenly distribute the number of members appointed to the Commission (two members appointed during odd-numbered years). Legislation was also enacted establishing an Inspector General staff position for the Joint Committee on Transportation Oversight; the committee selected Dr. Cynthia Orndoff to fill that position.

Senator Dolan stated that voter approval of Amendment 3 provided an opportunity for MoDOT to deliver many needed highway improvements. He commended MoDOT Director Pete Rahn for his innovation and leadership, which has led to many positive reforms within MoDOT.

Senator Dolan assured the Commission that he would continue to elevate transportation issues in order to increase the efficiency of Missouri's highway programs.

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STATEMENT FROM COMMISSIONER HARTSFIELD

Commissioner Hartsfield reported that he would not be reappointed to the Commission.
(Commissioner Hartsfield's one-year term on the Commission expired on March 1, 2005.)

Commissioner Hartsfield expressed his best regards to the other members of the Commission and his pleasure that during his tenure, the Commissioners considered the needs of *all* Missourians, without regard to political affiliation or area of residence. Speaking from his perspective as an African-American, Commissioner Hartsfield said diversity among Commission members was an asset, and he expressed the hope that minority groups would continue to be represented.

(In keeping with the statutes, Commissioner Hartsfield will continue to serve on the Commission until the Governor appoints a replacement.)

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DELEGATION TO DISCUSS TRANSPORTATION ISSUES IN THE SPRINGFIELD/GREENE COUNTY REGION

Bill Hammitt, Transportation Committee Chairman of the Springfield Area Chamber of Commerce; Marc Thornsberry, City of Springfield Public Works Director; and Kevin Lowe, Greene County Highway Administrator, were spokesmen of a delegation from the Springfield/Greene County region.

Mr. Hammitt emphasized the importance of partnering with governmental units to realize a successful transportation program. Each governmental unit, he said, must be willing to invest in the well-being of the others. He reported that the cooperative efforts of the City of Springfield, Greene County, Springfield Area Chamber of Commerce, MoDOT, and numerous local business leaders and dignitaries has proven to be very successful.

Mr. Hammitt stated that the Springfield metropolitan population is approaching 400,000, which could be largely attributed to regional transportation improvements. The city's workforce has grown more than 16 percent over the last decade. In 2004, the Springfield region accounted for one-third of the job growth in the State of Missouri, even though the region comprises only seven percent of the state's population. Mr. Hammitt said the gross metro product had more than doubled in the last decade, making Springfield the fastest growing region in the state and among the top 50 in the nation. He attributed this success to a team effort that supports development of long-term revenue sources and a comprehensive, statewide road system.

Mr. Hammitt reported that Springfield's economic influence continues to expand; today Springfield touches 27 counties with a combined population of 1 million. These people depend on Springfield for jobs, health care, education, and retail opportunities. Realizing that transportation has to stay ahead of the growth for the area to continue to expand, the Springfield Area Chamber of Commerce adopted formal legislative priorities that reflect a regional approach to transportation planning and development.

Mr. Thornsberry stated that the tremendous growth in the Springfield area, as reported by Mr. Hammitt, has resulted in numerous traffic needs in the Springfield metropolitan area. He reminded the Commission that in order to provide the needed highway improvements, Springfield had partnered financially with MoDOT. He encouraged other communities to do likewise.

Mr. Thornsberry noted that governmental resource sharing provides a better outcome for Missouri citizens. Sharing public assets, such as equipment and manpower, allows more to be accomplished than could be accomplished by working individually. Cooperatively working with Missouri's Congressional delegation allowed Springfield to direct \$2 million in federal and state

transit funds toward transit turnouts primarily on the state highway system.

Mr. Thornsberry said the National Transportation Operations Coalition, comprised of the American Association of State Highway and Transportation Officials, American Public Works Association, Federal Highway Administration, ITS America, and Institute of Transportation Engineers, developed a national traffic signal report card. As a result, the nation scored a D-; however, due to the partnership between MoDOT and the city of Springfield on its signals, Springfield scored a B. Springfield was one of only two cities cited for its efforts in this area.

Mr. Thornsberry highlighted transportation improvements in the Springfield area that have been accomplished.

Mr. Lowe highlighted the top five priorities of the Springfield region:

1. Route 44/65 Interchange.
2. Route 60/65 Interchange.
3. James River Freeway and Business 65 (Glenstone) Interchange (Phase 1).
4. New access road to replacement terminal at Springfield/Branson Regional Airport.
5. Transportation planning study to enhance connectivity within the Springfield metropolitan area with emphasis on north/south corridors.

In addition, Mr. Lowe said the Springfield metropolitan planning organization has looked beyond its borders and expressed support for improvement of two major highway corridors: Route 60 and Route 13.

Mr. Lowe thanked the Commission, MoDOT management, and the MoDOT district staff for their cooperative efforts.

Chairman Schramm commended the delegation for its presentation. She pointed out that Springfield is recognized statewide for its cooperative planning efforts and ability to work together to accomplish improvements for the entire region.

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DELEGATION TO DISCUSS STONE COUNTY TRANSPORTATION ISSUES

On behalf of George Cutbirth, Stone County Presiding Commissioner, and the citizens of Stone County, Ray Jones, Stone County Director of Economic Development, thanked the Commission and MoDOT staff for transportation improvements in Stone County.

Mr. Jones reported that Stone County highways are currently carrying volumes of traffic beyond their capacity, and he expressed appreciation to the MoDOT staff for their efforts to upgrade these facilities.

Mr. Jones thanked the Commission and MoDOT staff for the Route 76/Route 13 improvement, which will be under way soon. He reported that signalization of an intersection between the Reeds Spring junction and Branson West had been scheduled.

Mr. Jones stated that the area is continuing to grow, which will necessitate an improvement of Route 13 from Branson West to Kimberling City; the project is currently in the scoping process. Mr. Jones highlighted the following additional future highway improvement needs: Route 76 between Reeds Spring and Cape Fair, an east-west connection between Branson West and Branson, and bridge replacements on Route 86. He said Stone County and MoDOT were working cooperatively on several area projects.

Mr. Jones stated that Stone County is very supportive of the Scenic Byway Program, and expressed appreciation to the Commission for so designating the Ozark Mountain High Road.

The county is currently working on a proposal to designate the Ozark Mountain Parkway (Route 265) as a Scenic Byway.

Chairman Schramm expressed appreciation to Mr. Jones for his presentation and positive comments.

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**DELEGATION TO EXPRESS APPRECIATION
FOR PROJECT TO WIDEN ROUTE 45, PLATTE COUNTY**

Tom Pryor, Platte County Commissioner, thanked the Commission for including a project to widen Route 45, Platte County, in the 2006-2010 Statewide Transportation Improvement Program (STIP). He also expressed appreciation to MoDOT employees for working with the local regions to select and prioritize projects for inclusion in the STIP.

Chairman Schramm thanked Mr. Pryor for participating in the planning framework process.

Commissioner McKenna pointed out that Missouri voters, via passage of Amendment 3, had given MoDOT the opportunity to significantly increase Missouri's transportation program. He emphasized, however, that the program would be limited to four years without additional funding. Commissioner McKenna said this four-year period would allow MoDOT to prove to Missouri voters that if given adequate resources, it could provide a good transportation system.

Commissioner Michie encouraged Mr. Pryor and members of other county commissions to continue their participation in the planning framework process.

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MoDOT MANAGEMENT PROMOTIONS

Chief Engineer Kevin Keith announced that Mark Shelton had been promoted to District Engineer in District 10, replacing Scott Meyer, and Shane Peck has been promoted to Community Relations Director.

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2006-2010 STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM

Kevin Keith, Chief Engineer, presented the 2006-2010 Statewide Transportation Improvement Program (STIP). The program totals \$7.3 billion for all modes of transportation over the five-year period, which is the largest program in the history of MoDOT. Of this amount, \$5,892 million pertains to highways and bridges; \$700 million pertains to sub-allocated funds to cities, counties, and other groups; and \$706 million pertains to transit, waterways, aviation, and railroads. The program incorporates all three elements of the Amendment 3, Smoother, Safer, Sooner Program, as follows:

Element 1, Smooth Roads Initiative, will resurface approximately 2200 miles of Missouri's heaviest traveled roads. These roads carry 60 percent of Missouri's traffic and are within ten miles of 86 percent of Missouri's residents. This element includes 186 projects estimated to cost \$375 million. This initiative will be completed in three years.

Element 2 accelerated 55 projects that were in the 2005-2009 STIP. The cost of these projects is estimated to be \$427 million.

Element 3 includes 38 new high-priority projects which were identified and prioritized through the Planning Framework process. These projects total \$1.62 billion.

Mr. Keith noted that the projects in the 2006-2010 STIP are applicable to most of MoDOT's identified tangible results.

Mr. Keith reminded the Commission that the draft STIP was prepared through the new Planning Framework process, which included direct involvement of the metropolitan planning organizations and regional planning commissions. The Planning Framework process involved two formal meetings with 50 active participants. The media, stakeholders, and members of the public attended the meetings. Mr. Keith said the participants in the meetings and others felt the process was very open and fair, even though their specific projects may not have been selected.

Following presentation of the draft STIP to the Commission in May 2005, the public was allowed an additional 45 days to review the draft document and comment thereon. Of the 198 comments received during this comment period, 183 expressed support for upgrading Route 65 to a four-lane facility; five expressed support for upgrading Route 13 to a four-lane facility; six pertained to various projects that the staff recommended be considered in future STIPs; two were questions regarding the impact of two projects in the STIP on specific properties; and two were general comments. The upgrade of Route 65 and portions of the upgrade of Route 13 are included in the proposed STIP.

Mr. Keith advised the Commission that 46 projects had been added to the draft STIP presented to the Commission in May 2005, most of which involve projects to take care of the existing system. He further pointed out that the proposed 2006-2010 STIP is not fully programmed to allow safety, economic development, or other unanticipated needs to be added at a later date.

Commissioner Anderson observed that the Planning Framework process had worked extraordinarily well. It involved a tremendous amount of outreach to the public and input from

the public. He emphasized that several projects in the proposed STIP would complete major corridors.

Commissioner Anderson clarified that the Commission is holding the Route 36 corridor completion project in abeyance, pending voter consideration of a proposal to increase local sales tax. Approval of the sales tax would allow the local area to accelerate completion of the Route 36 corridor through MoDOT's cost-share program. The Commission has expressed its intent to amend the 2006-2010 STIP to include Route 36 if a favorable vote is realized.

Mr. Keith pointed out that inclusion of Route 36 would be in line with the Planning Framework process in that it was the next project on the priority list. He said the staff is continuing to investigate ways to construct that project at the lowest possible cost. Completion of the 52-mile project would provide motorists with a dual-lane roadway extending from St. Joseph to Hannibal.

In response to an inquiry from Commissioner Hartsfield pertaining to the effect of the 2006-2010 STIP on economic development opportunities, Mr. Keith stated that while difficult to quantify, economic development opportunities would be forthcoming to those directly involved in the road and bridge construction program, businesses that support the construction industry and construction workers, and future development along completed corridors. He said MoDOT did not plan to expand its workforce, even though the program was the largest in MoDOT's history.

Commissioner Kehoe expressed his endorsement of the Planning Framework and the Commission's process for identifying and prioritizing transportation projects. He emphasized that no action taken by a state entity would have more impact on economic development than approval of the 2006-2010 STIP.

After consideration and upon motion by Commissioner Michie, seconded by Commissioner McKenna, the Commission unanimously approved the 2006-2010 STIP and authorized preliminary engineering projects and hardship right-of-way purchases to be added to the STIP at the discretion of the Chief Engineer. All Commission members submitted letters to the Secretary to the Commission indicating abstention on specific projects.

Following approval of the 2006-2010 STIP, Commissioner McKenna clarified that the Commission stands committed to constructing the projects listed on the Highway and Bridge Construction Schedule.

The Commission directed the staff to determine the number and demographics (including membership in civic organizations, service organizations, etc.) of the people who participate in the 2007-2011 STIP Planning Framework process.

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PAVEMENT MARKING AND DELINEATION SYSTEM

Kevin Keith, Chief Engineer, reported that the staff had reviewed its pavement marking system. As a result, MoDOT will be transitioning to a *rumblestripe* (painted rumble strip) for pavement edgelines and pavement marking tape for centerlines on major divided roadways. The width of the pavement stripes will be increased from four inches to six inches. A durable epoxy material will be used on major roadways in lieu of previous types of paint in an effort to extend the life of the stripes from one to four years. A thicker paint with glass beads will be used on the supplementary system to increase the duration of the stripe from one year to two years.

In addition to the improved pavement marking, Mr. Keith reported that emergency reference markers would be installed on the Interstate System in lieu of the white delineators.

The emergency reference markers will allow motorists to provide better location information to emergency response personnel. Delineators will also be installed on guard cable, guardrails, and concrete barrier curbs.

Mr. Keith anticipated that use of the revised pavement marking materials would result in better service to the motorists at no additional cost.

Mr. Keith recommended approval of a proposal from 3M Company to provide, install, and warranty pavement marking tape for the Smooth Roads Initiative projects at a cost of approximately \$12 million (\$4.05 per foot). 3M Company is a sole source provider of this material.

After discussion and upon motion by Commissioner McKenna, seconded by Commissioner Michie, the Commission unanimously approved the recommendation. The Commission further authorized the Director or Chief Engineer to enter into a contract with 3M Company in keeping with the terms described above. Execution of the contract is subject to review and approval as to form by the Chief Counsel's office.

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BOND FINANCING PROGRAM

Pat Goff, Chief Financial Officer, reported that MoDOT had sold nearly \$350 million of fixed rate bonds having an average life of six years at an average rate of 3.37 percent. The bonds are double tax-exempt. Sale of the bonds closed on June 14, 2005. In mid-July 2005, approximately \$72 million of variable rate bonds will be sold.

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**CONTRACT EXCEEDING \$200,000,
MOBILE RETROREFLECTOMETER SERVICES**

On behalf of the Director, Don Hillis, Director of System Management, recommended approval of a contract with B. C. Traffic Engineering, Inc., to provide mobile retroreflectometer services at an estimated cost of \$265,000. The actual cost will be determined by the number of pavement markings read. The contract will be valid until June 30, 2006, and allows for up to two annual renewals. The retroreflectometer measures nighttime visibility of pavement markings.

Via approval of the consent agenda, the Commission unanimously approved the recommendation and authorized the Director, Chief Engineer, or Director of System Management to execute the contract documents and to approve and execute the contract renewal options.

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**PROFESSIONAL SERVICES CONTRACT,
MoDOT BASIC SUPERVISION PROGRAM,
MANAGEMENT DEVELOPMENT INSTITUTE**

On behalf of the Director, Micki Knudsen, Human Resources Director, recommended approval of a contract with Management Development Institute, a division of the College of Business Administration at Southwest Missouri State University, to provide basic supervisory training for 100 MoDOT employees during Fiscal Year 2006 at a cost not to exceed \$62,460. The contract contains a second year renewal option at the same cost and a third year renewal option at a maximum increase of three percent. The cost includes all participant materials, instructional materials, and travel-related expenses for the instructor(s), including hotel, meals, and transportation.

This program satisfies the Office of Administration's state training rule, which requires new supervisors to receive 40 hours of basic supervisory training in their first year as a supervisor.

Via approval of the consent agenda, the Commission unanimously approved the recommendation and authorized the Director or Chief Financial Officer to execute the contract for Fiscal Year 2006 and to approve and execute the contract extension options.

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MISSOURI LOGOS CONTRACT

On behalf of the Director, Pat Goff, Chief Financial Officer, recommended approval of a five-year agreement with Missouri Logos for marketing, installing, maintaining, and administering Missouri's logo signing program. The contract allows for an increase in participant costs from \$850 to \$1200 per sign direction per year for businesses located adjacent to roadways that have an average daily traffic exceeding 30,000. The cost will remain at \$850 per sign direction per year for businesses located adjacent to roadways with an average daily traffic of less than 30,000. The contract also provides for an increase in administration costs from \$190 to \$225 per sign direction per year where average daily traffic exceeds 30,000. Administration costs will remain at \$190 where average daily traffic is less than 30,000. The contract contains a provision for two one-year renewal options.

Mr. Goff reported that bids or proposals had not been solicited for the services outlined above due to lack of known contractors in this type of business. However, he said, notice was posted on MoDOT's website and in the *Jefferson City News Tribune* alerting all interested parties of MoDOT's intention to contract with a single feasible source. No response to the notice

was received. Mr. Goff further noted that 25 states have privatized logo signing programs. Of those, 20 have contracts with Interstate Logos (parent of Missouri Logos).

Via approval of the consent agenda, the Commission unanimously approved the recommendation and authorized the Chief Financial Officer to execute the contract, subject to approval as to form by the Chief Counsel's Office.

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**SCENIC BYWAY DESIGNATION,
ROUTE 465 (OZARK MOUNTAIN HIGH ROAD),
TANEY COUNTY AND STONE COUNTY**

On behalf of the Director, Terry Sampson, Right of Way Director, recommended designation of the Route 465 (Ozark Mountain High Road), Taney and Stone Counties, as a State Scenic Byway. The 8.5-mile route extends from the intersection of Route 65 north of the City of Branson to the intersection of Route 76 east of the City of Branson West.

Route 465 meets the requirements of scenic byway designation due to its scenic, recreational, cultural, and natural resources, unique design, and compatibility with the environment.

Via approval of the consent agenda, the Commission unanimously approved the recommendation.

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FISCAL YEAR 2005 BUDGET ADJUSTMENT

On behalf of the Director, Pat Goff, Chief Financial Officer, recommended the Fiscal Year 2005 budget be increased from \$1,842,539,000 (approved on August 13, 2004; amended on April 6, 2005) to \$1,875,069,000. He explained that the increase was needed as a result of net

zero transfers between different line items to move funds to account for changes in priorities and the following:

Reason for Revision	Amount of Increase
Additional Construction Program payments associated with Amendment 3 funding for the Smoother, Safer, Sooner Program	\$21,545,000
Additional payments on maintenance projects caused by the Smooth Road Initiative	9,500,000
Additional refund of over-collected motor fuel taxes	1,388,000
Additional fringe benefit payments	48,000
Multimodal adjustments	32,000
Additional payments from Motorcycle Safety Trust Fund	17,000
Total	\$32,530,000

Via approval of the consent agenda, the Commission unanimously approved the recommendation.

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HIGHWAY 179 TRANSPORTATION CORPORATION, REAPPOINTMENT OF MEMBERS TO BOARD OF DIRECTORS

On behalf of the Director, Roger Schwartze, District 5 Engineer, and Pat Goff, Chief Financial Officer, presented a recommendation from the Highway 179 Transportation Corporation to reappoint John Landwehr, Mayor of Jefferson City; Charles Weber, member at large; and Robert Jones, presiding commissioner of Cole County, for three-year terms expiring November 8, 2007.

Via approval of the consent agenda, the Commission unanimously approved the reappointments noted above in accordance with the requirements of the Missouri Transportation Corporation Act.

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CONSIDERATION OF BIDS ON FEDERAL-AID AND STATE PROJECTS

Award of Contracts June 24, 2005, Bid Opening

On behalf of the Director, Dave Nichols, Director of Program Delivery, stated that bids for road and bridge improvement projects had been received on June 24, 2005.

Mr. Nichols presented a tabulation of the bids received on all projects and recommended awards be made to the lowest responsive and responsible bidder noted below.

Route County Project	<u>Bid Amount Plus 2% for Contingencies</u>	<u>Non- Contractual Costs</u>	<u>Contractor</u>
Call 101 148 Nodaway J1P0818B	\$671,063.14	\$656.00	Herzog Contracting Corp. St. Joseph, MO
Call 102 136 Atchison J1P0818C 59 Atchison J1L0600K	1,057,917.75	144.00	Norris Asphalt Paving Co. Ottumwa, IA
Call 103 35 Daviess J1I0895A	1,076,423.54	1,312.00	Realm Construction, Inc. Blue Springs, MO
Call 302 61 Clark/Lewis J3P0424B	18,162,991.83	4,504.89	Fred Carlson Company, LLC Decorah, IA
Call 303 47 Lincoln J3P0709	922,769.76	144.00	L. Krupp Construction, Inc. Ellisville, MO
Call 501 70 Cooper J5I0856	4,870,068.03		Chester Bross Const. Co./ C. B. Equipment, Inc. Hannibal, MO

70
Cooper
J5I0857

Call 502

70 4,827,921.22
Boone
J5I0878

APAC-Missouri, Inc.
Columbia, MO

70
Boone
J5I0880
70
Boone
J5I0881

Call 503

70 78,312.54
Various
J5M0043

Superior Rail System, L.L.C.
Wellington, MO

Call 504

54 9,071,438.15 2,440.00
Cole
J5P0786
54
Cole
J5P0821
54
Cole/Callaway
J5D0600A

Chester Bross Const. Co./
C. B. Equipment, Inc.
Hannibal, MO

Call 601

64 1,714,146.72 72.00
St. Louis City
J6I1608

V.H.P. Enterprises, Inc.
Tarpon Springs, FL

Call 602

70 5,071,667.23 2,624.00
St. Charles
J6D0500D
64
St. Louis City/St. Louis
J6D0500F

L. Krupp Construction, Inc.
Ellisville, Mo

Call 603 MM Jefferson J6S1637	7,372,150.78	1,249.56	Fred Weber, Inc. Maryland Heights, MO
Call 604 P St. Louis J6D0600C 21 St. Louis J6D0600D 366 St. Louis J6D0600E	4,232,660.67	1,968.00	L. Krupp Construction, Inc. Ellisville, MO
Call 605 40 St. Louis J6P1780	235,255.71	144.00	Gaines Construction, Inc. Wentzville, MO
Call 606 170 St. Louis J6D0600A	4,596,508.16	1,312.00	L. Krupp Construction, Inc. Ellisville, Mo
Call 701 249 Jasper J7U0436B	3,097,810.65		APAC-Missouri, Inc. Columbia, MO
Call 801 13 Polk J8D0600D	402,202.55	656.00	Leo Journagan Construction Co., Inc. Springfield, MO
Call 802 744/D Greene J8D0600L	1,229,477.22	1,312.00	APAC-Missouri, Inc. Columbia, MO
Call 803 44 Greene J8D0600P	234,343.16	656.00	APAC-Missouri, Inc. Columbia, MO

Call 805			
44	2,589,480.65	1,312.00	APAC-Missouri, Inc.
Laclede/Webster			Columbia, MO
J8D0600Q			
Call 901			
17	8,484,351.75	1,667.75	H. R. Quadri Construction, Inc.
Texas			Van Buren, MO
J9P0440			
Call X01			
51	206,701.47		Fronabarger Concreters, Inc.
Perry			Oak Ridge, MO
J0P0910			
Call X02			
Various	143,367.28		Central Seal Company
Various			Danville, KY
J0M0022			
Total	<hr/> \$80,349,029.96	<hr/> \$22,174.20	

Construction speed limits conform to the standard work zone speed limits shown on Standard Drawing No. 616.10 as approved by the Commission.

Concurrence in Award of Contract

Mr. Nichols recommended the Commission concur with the State of Nebraska Department of Roads in awarding the following contract to the low bidder listed below.

Route			Bid Amount	
County		Bid	Plus 2% for	
Project	Description	Opening Date	Contingencies	Contractor
159	Bridge Deck	June 16, 2005	\$234,740.76*	Cramer and
Holt Co.	Overlay	(State of Nebraska)		Associates, Inc.
MO/				990 NE 44 th
Richardson Co.				Des Moines, IA
NE				
J1P0967				

*MoDOT is responsible for \$138,082.80

Commission Action

After consideration and upon motion by Commissioner Michie, seconded by Commissioner Hartsfield, the Commission took the following action.

1. Awarded contracts to the lowest responsive and responsible bidders for bids received on June 24, 2005, as recommended and noted above, and authorized an additional two percent of the contract amount for contingencies. The Commission approved the allocation of funds covering the non-contractual costs for these projects as indicated on the above tabulation.
2. Concurred with the State of Nebraska Department of Roads in the award of Job No. J1P0967, Route 159, Holt County, to the lowest responsive and responsible bidder noted above.

In keeping with the Commission's Delegation of Authority to Execute Documents, the Director, Chief Engineer, or Director of Program Delivery may execute the contracts awarded above.

Commissioner Anderson observed that the variances between the bids and the staff's estimates were increasing, which appears to indicate that the accelerated workload and petroleum price increases will, indeed, challenge MoDOT's ability to deliver the scheduled road and bridge improvements within the time and budget desired. He encouraged the staff to continue to consider cost/benefit analyses in its recommendations.

* * * * *

ADMINISTRATIVE RULE, NOTICE OF RESCISSION AND NOTICE OF PROPOSED RULEMAKING, 7 CSR 10-25.020, OVERDIMENSION AND OVERWEIGHT PERMITS

On behalf of the Director, Jan Skouby, Motor Carrier Services Director, recommended filing final notices of rulemaking with the Joint Committee on Administrative Rules and the Secretary of State regarding the overdimension/overweight permit requirements. In addition to

moving the requirements from 7 CSR 10-2.010 to 7 CSR 10-25.020 of the Missouri Code of State Regulations, the rules incorporate the following major revisions.

1. Jefferson City Office open on six holidays that other state offices are closed.
2. Insurance increase to \$750,000, proof of insurance required before a permit is issued.
3. Stated policy for suspension/revocation of permit privileges.
4. Payments accepted via credit card, e-funds, etc.
5. Fee increase of approximately 25 percent.
6. Multiple Commodity Blanket to allow hauling various equipment with one permit.
7. Permit amendment fee.
8. Allow electronic filing.
9. Allow equipment with dual tires to be hauled without removing duals.
10. Concrete pump truck blanket added to coincide with statutory revision.
11. Tourist area and metro area curfews.
12. Added more acceptable configurations.
13. Increased routine weight to 160,000 pounds from 152,000 pounds.
14. Added restrictions for superloads.
15. Changed house move section to reflect superload requirements.

Via approval of the consent agenda, the Commission unanimously approved the recommendation and authorized the Director or Chief Engineer to execute any documents needed to file the Notice of Proposed Rescission and the Notice of Proposed rulemaking as referenced above.

* * * * *

ROADWAY LOCATION AND/OR DESIGN APPROVAL

On behalf of the Director, the District Engineers informed the Commission that preliminary plans and exhibits for the following projects were presented at a public hearing.

Route T, Franklin County Over Labadie Creek Job No. J6S1675

Public Hearing Held May 11, 2005

This proposed improvement will replace the bridge over Labadie Creek, which is both structurally deficient and functionally obsolete, and will improve safety by upgrading the horizontal geometrics. This project has normal access right of way. The roadway will remain open to traffic during construction. This project is 0.3 mile in length.

Mr. Ed Hassinger, District 6 Engineer, recommended approval of the location and design as presented at the public hearing.

**Route 39, Lawrence County
Job No. J7P0733
Public Hearing Held May 5, 2005**

The proposed improvement will combine the intersections of Carnation Street and High Street with Route 39 into one location to improve safety and provide signalization of the railroad crossing located adjacent to the intersection. Proposed lane widths are 12 feet. Shoulder widths are 8 feet. This project will have normal access right of way. A temporary road closure will be required, during which time traffic will be detoured over other state routes. This project is 0.2 mile in length.

Mr. Richard Walter, District 7 Engineer, recommended approval of the location and design as presented at the public hearing.

**Route 160, Greene County
0.6 Mile East of Dade County
Bridge over Sac River
Job No. J8P0561**

Public Hearings Held April 19, 2005 and May 26, 2005

This proposed improvement will replace the existing 20-foot wide, 310-foot long bridge over the Sac River with a new bridge that has two 12-foot lanes with 4-foot shoulders at the same location and improve the alignment on the roadway approaches to the bridge. This project will have normal access right of way. Route 160 will be closed at the bridge for approximately six months during construction of the new bridge. This project is 0.8 mile in length.

Mr. Dale Ricks, District 8 Engineer, recommended approval of the location and design as presented at the May 26, 2005, public hearing.

**Route 65, Taney County
From Route 165 in Hollister to the Missouri-Arkansas State Line
Job No. J8P0609
Public Hearing Held June 2, 2005**

This proposed improvement will widen the existing two-lane roadway to a four-lane divided expressway with a grassy median and outer roads. This project will be fully controlled access right of way.

Traffic will be maintained on the existing lanes during construction.
This project is 8.3 miles in length.

Mr. Dale Ricks, District 8 Engineer, recommended approval of the location and design as presented at the public hearing.

**Route W, Iron County
Route 21 to 0.1 Mile North of Radford Road
Job No. J9S0421**

Public Hearing Held December 16, 2004

This proposed improvement will provide a new bridge over the Union Pacific Railroad and new roadway approaches to the bridge using two 12-foot lanes and 6-foot shoulders. This project has normal access right of way. Route W will be closed at the bridge location during reconstruction of the bridge and roadway approaches. This project is 1.9 miles in length.

Mr. Tom Stehn, District 9 Engineer, recommended approval of the location and design as presented at the public hearing.

**Route 60, Shannon/Carter Counties
Route DD in Shannon County
To 3 Miles East of Route J in Carter County
Job No. J9P0359B**

Public Hearing Held May 17, 2005

This proposed improvement will provide a four-lane divided highway with 12-foot lanes, 4-foot inside shoulders and 10-foot outside shoulders. This project will have controlled access right of way. Traffic will remain on existing Route 60 during construction of the new lanes. The project is 9.7 miles in length.

Mr. Tom Stehn, District 9 Engineer, recommended approval of the design as presented at the public hearing with modification through the town of Fremont to provide a divided four-lane highway with the new lanes on the north side of existing Route 60.

After full consideration of the favorable and adverse economic, social, and environmental effects of the recommended designs, the Commission, via approval of the consent agenda, unanimously found and determined the recommended designs would best serve the interest of the public and approved the recommendation.

* * * * *

RATIFICATION OF APPROVAL OF RIGHT OF WAY PLANS FOR CONDEMNATION

On behalf of the Director, Dave Nichols, Director of Program Delivery, recommended the Commission ratify the approval of the Chief Engineer of the following right of way plans which have been filed for condemnation.

<u>County</u>	<u>Route</u>	<u>Job Number</u>	<u>Date Commission Approved Design</u>
St. Louis City	I-64	J6S1667	April 14, 2004
Carter	60	J9P0359D	February 3, 2004
Madison	72	J0P0851	November 10, 2004
Franklin	30/47	J6P1562	August 8, 2003

In accordance with Section 227.050 RSMo, the Commission, via approval of the consent agenda, approved the right of way plans for the above noted projects and directed they be filed as necessary for the condemnation of right of way.

* * * * *

-- REPORTS --

DESIGN/BRIDGE ENGINEERING CONSULTANTS REPORT

Dave Nichols, Director of Program Delivery, presented a written report on active consultant contracts dated May 31, 2005. During the March 1-May 31, 2005, time period, five consultants were retained to perform engineering work on five projects at a cost of \$4,138,964. Prior to March 1, 2005, 57 consultants held contracts on 184 projects totaling \$211,295,640.

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- ADMINISTRATIVE HEARING -

**IN THE MATTER OF REQUEST FOR
ADMINISTRATIVE REVIEW OF NOTICE
TO REMOVE OUTDOOR ADVERTISING
HEARING NO. 05-05-373
HURRICANE DOLLY'S, APPLICANT
ADMINISTRATIVE HEARING NO. 736**

This is the final decision and order of the Missouri Highways and Transportation Commission following a request for administrative review of a *Notice to Remove Outdoor Advertising* issued under Section 226.580 RSMo. (Supp. 2003) by the Missouri Department of Transportation (hereinafter, Department) to Hurricane Dolly's (hereinafter, Applicant).

A hearing was conducted by Hearing Examiner Bryce Gamblin in the Hearing Room of the State Highway and Transportation Building, Jefferson City, Missouri, on May 17, 2005. The Department was represented by Megan Waters-Hamblin, Assistant Counsel. The Applicant appeared. The case was submitted on the record.

Having considered all the competent and substantial evidence upon the whole record, we find as follows:

FINDINGS OF FACT

This hearing involves an outdoor advertising structure. (Tr. 6, Ex. A, C). The sign is owned and maintained by Applicant adjacent to Missouri Route 5 in Camden County at county log mile 5.69 on the right side of the road. (Tr. 9, Ex. A).

The sign is visible from the main traveled way and is located approximately 10 feet from the nearest edge of highway right of way of westbound Missouri Route 5, which is a part of the primary highway system and is a controlled route. (Tr. 6, 10, Ex. C, D). The sign was erected in or around October, 2004. (Tr. 6, 10).

Applicant's sign is located approximately 166 feet from a permitted sign currently owned by Lamar Advertising and advertising Hunter Douglas (Tr. 9). The sign is not located within any city limits and the sign is located on land that is zoned commercial. (Tr. 11).

The sign is being maintained without a permit issued by the Department. (Tr. 11).

The Department issued a *Notice to Remove Outdoor Advertising* for the sign, which was received by the Applicant. (Tr. 6-7; Ex. A, B).

CONCLUSIONS OF LAW

The Commission has jurisdiction under Section 226.580 RSMo. (Supp. 2003). The sign was erected after March 30, 1972, is adjacent to and within 660 feet of the nearest edge of the right-of-way, and is visible from the main traveled way of a primary highway and, thus, subject to the requirements of Sections 226.500 to 226.600 RSMo. and the Commission's administrative rules regarding outdoor advertising.

Signs erected or maintained after March 30, 1972, within 660 feet of the nearest edge of the right-of-way of a primary or interstate highway are regulated and limited to (1) directional and other official signs and notices; (2) on-premise signs; (3) signs located in areas zoned commercial, industrial, or the like; (4), signs located within 750 feet of an unzoned commercial or industrial establishment when located in a county without zoning regulations; and (5) nonconforming signs. Sections 226.520 RSMo. (2000), Section 226.540 RSMo. (Supp. 2003), Section 226.550 RSMo. (Supp. 2003), and 7 CSR 10-6.060(2).

Section 226.580.1(2) RSMo. (Supp. 2003) and 7 CSR 10-6.080(2)(B) prohibit signs for which a permit is not obtained as prescribed in Sections 226.500 to 226.600 RSMo. We conclude the sign violates that prohibition and, thus is subject to removal as an unlawful sign. Drury Development Corp. v. State Highway Commission, 637 S.W.2d 354 (Mo. App. W.D.

1982); Osage Outdoor Advertising, Inc. v. Missouri Highway and Transportation Commission, 677 S.W.2d 389 (Mo. App. S.D. 1984).

In addition to failure to obtain a permit, Applicant's sign violates 226.540(3)(a) RSMo. (Supp. 2003) and 7 CSR 10-6.040(3)(A) relating to spacing between outdoor advertising structures. Section 226.540(3)(a) RSMo (Supp. 2003) requires 1,400 spacing between structures on the same side of the highway. Applicant's sign is located approximately 166 feet from a permitted sign currently owned by Lamar Advertising and advertising Hunter Douglas and, as such, Applicant's sign violates 226.540(3)(a) RSMo. (Supp. 2003) and 7 CSR 10-6.040(3)(A) and is subject to removal. Gannett Outdoor Advertising Co. v. Missouri Highway and Transportation Commission, 691 S.W.2d 915, 917 (Mo. 1985); State ex rel National Advertising Company v. State Highway Commission, 624 S.W.2d 453, 459 (Mo. App. W.D. 1981).

Section 226.580.1(1) RSMo. (Supp. 2003) and 7 CSR 10-6.080(2)(A) prohibit signs erected after March 30, 1972, contrary to the provisions of Sections 226.500 to 226.600 RSMo. We conclude the sign violates the spacing provisions of Sections 226.540 RSMo. (Supp. 2003) and, thus, is subject to removal as an unlawful sign.

At the hearing, Applicant testified that in the past, Applicant had another permitted sign across the road from the current sign that was permitted by the Department, but that sign disappeared in 2003 (Tr. 15-17). The location of Applicant's prior sign is presently occupied by a permitted sign advertising Kula Bay (Tr. 15-17). Applicant does not know what happened to the prior sign and did not file a police report regarding its disappearance (Tr. 15-17). The Commission cannot speculate as to what happened to the prior sign or what remedies the Applicant may have regarding the prior sign, but as far as the sign that is the subject of the current hearing, the clear evidence shows that it was erected without a permit and in a location

too close to another permitted sign.

The Department properly issued the *Notice to Remove Outdoor Advertising*.

ORDER

It is, therefore, the order of the Commission that Applicant cause the sign to be removed within 30 days of the date of mailing of this order. This report and order was adopted by unanimous vote of all Commission members present.

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By unanimous vote of all members present, the meeting of the Commission was adjourned.

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